IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SIXTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 388 of 1995

Between:

Ch.Kusalava, S/o. Ramaiah.
R/o. Vijayawada.

..... PETITIONER

AND

1 District Collector, Hyderabad.
2 Commissioner of Survey Settlements and Land

Records, Hyderabad.
3 Deputy Director, Survey Settlements and Land Reforms, Hyderabad.
4 Municipal Corporation of Hyderabad, Rep. by the

Commissioner, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to declare the threatened action of the 4th respondent to occupy the Land bearing No. 5-10-187/2 forming part of T.S.No. 2 Block G Ward No. 53 of Gaganmanhal Village over an extent of 3275.62 Sq.yds as arbitrary, illegal and issue a consequential direction to the 4th respondent not to dispossess him from the land.

Counsel for the Petitioner: MR.C.V.MOHAN REDDY

Counsel for the Respondent Nos.1 to 3: GOVERNMENT PLEADER FOR REVENUE

Counsel for the Respondent No.4: MR.GANTA RAMA RAO,

STANDING COUNSEL FOR MCH

The Court made the following:

ORDER:

This writ petition is filed by the petitioner praying to issue a writ of Mandamus declaring the action of the fourth respondent in interfering with the petitioner's and others possession in respect of the land bearing No.5-10-187/2 forming part of T.S.No.2, Block G, Ward No.53 of Gaganmahal Village over an extent of 3275.62 square yards as arbitrary, illegal and consequently direct the fourth respondent not to interfere or dispossess the petitioner from the said land.

2. It is stated that the petitioner along with three others purchased the above extent of land along with a small residential house under a registered sale deed bearing document No.2406 of 1964 dated 08.08.1964 registered in the Sub-Registrar's Office, Hyderabad. It is the further case of the petitioner that the petitioner and others who purchased the property have been in continuous possession though the major part of the extent purchased was vacant land with a small residential house. As the fourth respondent was trying to interfere with the petitioner's possession and threatened to dispossess the petitioner on the premises that the land in question was recorded in the revenue records as Government Abadi land and the possession of the said land was handed over by the Government to the fourth respondent, the petitioner along with others made representations to

the first respondent seeking correction of the entry in the revenue records as it was wrongly recorded as Government Abadi land though it was a private land. As no action was taken by the respondents, the petitioner has come up with the present writ petition and sought for a direction.

3. By way of an interim order, this Court passed an order of status-quo with reference to the possession of the land pending writ petition. However, the first respondent gave a communication with reference to the representations dated 22.04.1994, 24.01.1995 and 21.07.1995 made to him, that he cannot take any action in view of the pendency of the writ petition. Therefore, in fact, the petitioner filed another W.P.M.P. seeking a direction to dispose of the representations of the petitioner seeking correction of the entry in the revenue records. But, however, in the said W.P.M.P. no orders were passed as the main writ petition itself was listed for final hearing.

4. The learned counsel for the petitioner contended that as the petitioner and others have purchased the said property under a registered sale deed for valuable consideration in the year 1964, the respondents have no right to interfere with their possession. It is also contended that merely because in the revenue records the land was shown as Government Abadi land, that itself is not a proof that the land belongs to the Government. Therefore, the respondents are not entitled to interfere with the petitioner's possession.

5. Counters have been filed both on behalf of the fourth respondent as well as on behalf of the respondents 1 to 3 disputing and denying the rights of the petitioner and others. In the counter filed by the third respondent it is stated that town survey was conducted in the year 1966 and at that time the land in question was open and it was being used as a playground. Therefore, it was recorded in the town survey records as municipal playground. Therefore, the petitioner's contention that he along with others purchased the said land along

with a small residential house is incorrect. It is also stated that the Government is no way concerned, if the petitioners have purchased the said land from some private person who has no right or title over the land. Therefore, the contention of the learned Government Pleader is that there is no house, as claimed, and the land was vacant, and the land was handed over to the Municipal Corporation of Hyderabad by the State Government in the year 1951, and since then it has been used as a playground. To the same effect is the counter filed by the Municipal Corporation of Hyderabad that the land was handed over by the Government to the Corporation and the Corporation is in possession of the land in question and the same is being used as a playground.

6. Heard both sides and considered the material on record.

7. The petitioner claimed that he along with others purchased the property in question under a registered sale deed and approached this Court in the present writ petition claiming illegal interference by the respondents. Though the petitioner sought for declaration that the interference by the respondents is illegal and without jurisdiction, this Court may not be in a position to go into the merits of the title in the present proceedings. But, however, admittedly, the revenue records shows that the said land was recorded as a Government Abadi land and in fact, the petitioner made representations to the first respondent to enquire into the matter and correct the entry in the revenue records deleting the said word 'Government Abadi'. But, the representations were rejected on the ground that the first respondent cannot conduct the enquiry in view of the pendency of the present writ petition. But, in fact, an order was passed which was communicated to the petitioner by proceedings dated 09.11.1995.

8. In view of these circumstances, without going into the merits of the matter, the writ petition is disposed of directing the first respondent to

consider the representations of the petitioner dated 22.04.1994, 24.01.1995 and 21.07.1985 and conduct necessary enquiry by issuing notice to the petitioner as well as to the fourth respondent, if necessary, and pass appropriate orders disposing of the representations made by the petitioner as to his claim and as to his objection to the entries made in the revenue records during the survey conducted by the Survey Department. In the said enquiry, it is open to the fourth respondent to place necessary material, if it is in possession, showing that the land was handed over to it by the State Government, as claimed. The first respondent is accordingly directed to dispose of the representations of the petitioner expeditiously, preferably, within a period of six weeks from the date of receipt of a copy of this Court. Till the disposal of the said representations, the status-quo order passed by this Court earlier shall continue.

9. The writ petition is disposed of with the above directions. No order as to costs.

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(S.ANANDA REDDY, J)

26.11.2004

DR

To

1 District Collector, Hyderabad.
2 Commissioner of Survey Settlements and Land

Records, Hyderabad.
3 Deputy Director, Survey Settlements and Land Reforms, Hyderabad.
4 The Commissioner, Municipal Corporation of Hyderabad, Hyderabad.

5 2 CCs to Government Pleader for Revenue, High Court

Buildings, Hyderabad. (OUT)

6 2 CD copies